

**Summary of Twenty-ninth and Final Negotiation Session on
New Water Supply and Extended MOU Agreement**

Date of Session: June 27, 2005
Place: Santa Rosa Laguna Treatment Plant
Time: 9:00 AM – 11:30 PM

Parties Present and Represented:

Cities: Cotati, Petaluma, Rohnert Park, Santa Rosa, Sonoma and Windsor.
Special Districts: Sonoma County Water Agency, Valley of the Moon WD, North
Marin WD, Forestville WD and Marin Municipal WD.

Attachment A contains complete list of attendees.

Marin Municipal WD- Discussion and Consideration of Proposal:

Paul Helliker, Marin Municipal WD, advised WAC that the 2-year extension and the \$400,000 incentive offer set forth in a letter to the Sonoma County Water Agency dated June 6, 2005 is still on the table. Miles Ferris requested WAC's position on the proposal in order to present to the Sonoma County Water Agency (SCWA) Board meeting on Tuesday, June 28, 2005.

Jake Mackenzie, City of Rohnert Park, informed WAC that Mr. Helliker had met with Armando Flores, Randy Poole and himself on behalf of their Council. Rohnert Park would support the 2-year extension if Marin Municipal WD would: 1) rescind their letter dated April 6, 2005 to SCWA; 2) agree that the 5,000 afa being made firm is not part of the 75,000 afa which SCWA currently has rights to divert. Mr. Helliker advised that Marin Municipal WD would agree to rescind the April 6, 2005 letter, but could not agree to the second condition. Pam Torliatt, City of Petaluma, advised that her Council voted to support the 2-year extension, however, they suggested a \$600,000 incentive payment that could be used toward future water conservation programs. Al Bandur, City of Sonoma, advised that, due to time constraints, the matter was not taken to his Council and, therefore, he was abstaining from the vote. Krishna Kumar, Valley of the Moon WD, advised his Board considered this item and there was not support for a 2-year extension, but they would consider a 6-month extension. Terry Stubbings, City of Cotati, said that the Cotati Council considered this item and they were not in a position to support the 2-year extension. George Roberts, Forestville WD, advised their Board had not taken this item up so Forestville would abstain from the vote. Jack Baker, North Marin WD, advised they support the extension with some misgivings. Mike Martini, City of Santa Rosa, advised the Santa Rosa City Council considered the item and does not support the extension.

The vote, which would have required 5 yes votes and over 50% of the weighted vote, was Petaluma and North Marin WD (Y), Rohnert Park (qualified Y), Santa Rosa, Valley of the Moon WD and Cotati (N), Sonoma and Forestville (A). Because there were not 5 affirmative votes, the vote did not pass the WAC.

Terry Stubbings then made a motion that negotiations be referred to Sonoma County Water Agency to consider continued negotiations with Marin Municipal WD. Jake Mackenzie seconded for discussion purposes, since WAC was clearly divided in their vote. The motion passed with the following vote: North Marin WD, Valley of the Moon WD, Petaluma, Cotati, and Rohnert Park voting yes (5-Y); Santa Rosa, Sonoma and Forestville WD voting no (3-N). (The weighted vote of Santa Rosa, Sonoma and Forestville WD is 48.2%.)

Randy Poole, SCWA, advised that Marin Municipal WD would need to submit payment by the June 30th deadline or lose their option. Modifications can be made to the SCWA/Marin Municipal WD agreement later with any changes subject to WAC approval

Final Draft of Extended MOU:

John Nelson, JONWRM provided the final draft of the MOU, Restructured Agreement and Water Shortage Allocation Model, together with supporting files on a CD to WAC members and went over the minor edits and changes to Draft 7 of the MOU. He noted changes made were to conform language to current EIR status regarding the Transmission System Improvements, new estimated completion date for Collector 6, insertion of correct reference to SCWA's updated finding made in January 2005 regarding "temporary impairment" and modification of liquidated damage language to conform to Eleventh Amended Agreement liquidated damage provisions. Virginia Porter, City of Santa Rosa, had copies made of the updated resolution and those were distributed. Virginia Porter said Santa Rosa had found some minor language changes and typing errors. John Nelson said he would make those changes and redistribute the final MOU by email. Chris DeGabriele asked about backup for the derivation of the values in Table 1. John Nelson noted these were contained in an Excel file which was on the CD Rom. Pam Torliatt asked about the status of Collector 6. Randy Poole reviewed the problems that resulted in the delay to the proposed 2005 fall startup.

Jake Mackenzie moved that the parties approve the Extended MOU, with corrections, as to form and present to their respective governing bodies for approval. Krishna Kumar seconded the motion. Mr. Nelson said he would email the corrected documents to all parties. After discussion, the motion was approved unanimously.

Allocation of Water During a Water Deficiency:

John Nelson reviewed the allocation model he had prepared conforming to the mandatory language contained in Section 3.5 of the Restructured Agreement pertaining to a shortage of water in the Russian River. He noted that the model was actually two models. The "Current Allocation Model" which covers how water would be allocated should a

drought occur next year and the “Future Allocation Model” was showing what allocations would be assuming all customers of the SCWA had reached or exceeded their annual entitlement limits. He noted this was the type of model prepared for the City of Santa Rosa by West/Yost and Associates and later in the model presented by the City of Petaluma staff. John Nelson then reviewed and emphasized deficiencies in data input to the model covered in the last paragraph of the model description that must be addressed by SCWA before a fair and equitable allocation can be achieved.

Virginia Porter said Santa Rosa staff had no problem with the “Future Allocation Model”, but felt the “Current Allocation Model” needed to consider water conservation in the “second” (Tier 2) allocation provided for by Section 3.5. She noted data contained in the recent presentation by the SCWA to the State Water Resources Control Board could be a source of data for this purpose. Pam Torliatt said that before adopting the proposed Restructured Agreement, Petaluma would need to see the final model prepared by the SCWA after information for the Year 2005 Urban Water Management Plan is made available. Paul Helliker said Marin Municipal WD had a right to up to a 12.8 mgd flow rate and that its annual entitlement was 14,300 afa comprised of 9,300 afa “firm” and 5,000 afa “as available”. Mr. Nelson responded that Marin Municipal WD’s 12.8 mgd flow rate was guaranteed only in the new parallel Petaluma Aqueduct that had not been built and that the 5,000 afa was not included as by definition the model dealt with a deficient situation and therefore there was no extra water to distribute. Terry Stubbings noted the Year 2005 Urban Water Management Plan will have updated numbers and suggested the WAC confer on this when available.

After further discussion it was the consensus of WAC that the allocation model should be reviewed and updated when the new data is available from SCWA and a Technical Group comprised of the same members that made up the MOU Technical Group (Chair: Chris DeGabriele, Al Bandur, Virginia Porter, Krishna Kumar, Mike Ban, Matt Mullan, Darrin Jenkins, Pam Jeane, Toni Bertolero and Paul Helliker) should convene to finish developing the model.

Final Draft Restructured Water Supply Agreement:

Steve Shupe, counsel for the Sonoma County Water Agency, went over the final changes to the June 3, 2005 draft of the proposed Restructured Water Supply Agreement. He noted that the only substantial change was the addition of Section 3.3(b) to accommodate transfer of a portion of a given water contractor’s annual entitlement limit. This provision was developed to resolve the Valley of the Moon annual cap issue. Chris DeGabriele noted that the word “programs” had been added to the definition of a “Recycled Water Project” in Section 1.2(z) and asked for assurance that that did not mean “O & M” costs since those were specifically excluded by the wording of Section 2.6. Matt Mullan, Town of Windsor, noted he had asked for this language and explained it was to cover costs associated with the conduct of recycled water programs, such as monitoring and reporting costs, which could include some staff labor costs. Steve Shupe agreed and said it did not include traditional O&M costs of physical facilities.

Mike Martini, City of Santa Rosa, moved that the parties approve the Restructured Water Supply Agreement as to form and present it to their respective governing bodies for approval. Terry Stubbings seconded the motion. After discussion, the motion was approved by the representatives of Santa Rosa, Rohnert Park, Sonoma, Cotati, Windsor, Valley of the Moon WD, North Marin WD, and Forestville WD. Pam Torliatt, Petaluma, voted “no” stating that her vote was contingent on their Council review and that they may have changes to consider.

Jake MacKenzie noted the new agreement was concluded and recognized and thanked John Nelson for services rendered. Chairman Ferris agreed and said the WAC would now revert to its regular meeting schedule.

Randy Poole said County Counsel is working up a model approval resolution with CEQA findings and would distribute that as soon as available.

Attachments:

- A. List of Attendees, June 27, 2005 WAC Water Supply Negotiation Session

Attachment A

Attendees at WAC Water Supply Negotiation Session of June 27, 2005

Attendees:

- Chris DeGabriele, North Marin Water District
- Drew McIntyre, North Marin Water District
- Jack Baker, North Marin Water District
- Mike Bierman, City of Petaluma
- Pam Torliatt, City of Petaluma
- Al Bandur, City of Sonoma
- Krishna Kumar, Valley of the Moon Water District
- Sanford Smith, Valley of the Moon Water District
- Randy Poole, Sonoma County Water Agency
- Spencer Bader, Sonoma County Water Agency
- Matthew Damos, Sonoma County Water Agency
- Miles Ferris, City of Santa Rosa
- Virginia Porter, City of Santa Rosa
- Mike Martini, City of Santa Rosa
- Greg Scoles, City of Santa Rosa
- Jane Bender, City of Santa Rosa
- Paul Helliker, MMWD
- Dana Roxon, MMWD
- Darrin Jenkins, City of Rohnert Park
- Jake Mackenzie, City of Rohnert Park
- Matt Mullan, Town of Windsor
- Terry Stubbings, City of Cotati
- George Roberts, Forestville WD
- John Nelson, JONWRM

Public Attendees:

- Tom Yarish, Friends of the Esteros
- Gerry Nakano, West Yost & Assoc
- Brenda Adelman, RRWPC
- Martin Steinpress, Brown & Caldwell
- Curt Taras, Brown & Caldwell
- David Keller, FOER
- Bob Anderson, United Wine Growers
- Fred Soares, Southwest Neighborhood Alliance
- Jim Downey, Penngrove / Kenwood Water
- Don McEnhill, League of Women Voters
- Jo Timmsen, T-3
- Paul Stutrud, OWL
- Steve Shupe, Sonoma County Water Agency